

3.0 OTHER FEDERAL LAWS

The following federal laws are required under the New Mexico Administrative Code, Title 20, Chapter 4, Part 1 (20.4.1 NMAC), §§ 270.3 and 270.14(b)(20), revised June 14, 2000 [6-14-00], to be given consideration when applying for a hazardous waste facility permit. When any of these laws is applicable, its procedures must be followed:

1. *The Wild and Scenic Rivers Act (16 United States Code [USC] 1273 et seq.)*. This act provides for a national wild and scenic rivers system and prohibits construction of any waterway that would have a direct adverse effect on the values for which a wild and scenic river was established.
2. *The National Historic Preservation Act of 1966 (16 USC 470 et seq.)*. This act establishes a program for the preservation of historic properties throughout the country. The act has provisions that require mitigation of adverse effects to registered properties.
3. *The Endangered Species Act of 1973 (16 USC 1531)*. This act provides for the conservation of endangered and threatened species of fish, wildlife, and plants. The act prohibits any action that would jeopardize the continued existence of any endangered or threatened species or adversely affect its critical habitat.
4. *The Coastal Zone Management Act of 1972 (16 USC 1451 et seq.)*. This act establishes national policy for the management, use, protection, and development of land and water resources of the nation's coastal zones. Section 307(c) of the act and implementing regulations prohibit the U.S. Environmental Protection Agency from issuing a permit for activity affecting coastal zone land or water without the certification from the applicant that the activity is in compliance with the state Coastal Zone Management Program.
5. *The Fish and Wildlife Coordination Act of 1934, as amended (16 USC 661 et seq.)*. This act promotes the conservation of wildlife, fish, and game and integrates this conservation with water resource projects. Certain provisions of the act require that permits proposing or authorizing the impoundment, diversion, or other control or modification of any body of water be considered by the appropriate state agency for impacts to wildlife resources.

Because Los Alamos National Laboratory (LANL) has ongoing programs in support of the National Historic Preservation Act, the Endangered Species Act, and the Fish and Wildlife Coordination Act, consideration was given to these federal laws.

The National Historic Preservation Act is administered by the Advisory Council on Historic Preservation, appointed by the President, and the New Mexico State Historic Preservation Office. Section 106 of the Act requires the U.S. Department of Energy (DOE) to consider the effects of its actions on historic properties, and provide the Council with a reasonable opportunity to comment on those actions and the manner in which DOE takes historic properties into account in their decisions.

DOE accomplishes this through consultation with the State Historic Preservation Office whenever a project may potentially impact a historic property. LANL may prepare a Historic Building Survey Report assessing the eligibility of a historic building dating from the Manhattan Project and early Cold War periods (1943 to 1956) for the National Register of Historic Places and evaluating the impacts of the proposed actions. The consultation process was formalized in April 2000 through a Programmatic Agreement between DOE, the Council, and the State.

For any undertaking on DOE land that may directly or indirectly impact threatened and endangered (T&E) species or their habitat, DOE must consult with the U.S. Fish and Wildlife Service (USFWS), as provided under Section 7 of the Endangered Species Act. Similarly, DOE must consult with the USFWS for projects that would impound, divert, or otherwise control or modify a body of water, as required by the Fish and Wildlife Coordination Act. For Endangered Species Act compliance, LANL may prepare a Biological Assessment to document the presence of T&E species and to evaluate the impacts of a project on a listed species or its habitat. DOE will then request in writing that the USFWS concurs with DOE's findings in the Biological Assessment. In recent years, DOE and LANL have streamlined the consultation process by preparing a T&E Species Habitat Management Plan. This plan fulfills the provisions of the Endangered Species Act that require federal agencies to carry out programs for the conservation of T&E species and their habitat. The USFWS approved this plan in February 1999.

Provisions in the Wild and Scenic Rivers Act and the Coastal Zone Management Act are not applicable to LANL's activities.

Consideration will be given to Executive Orders, issued by the President, that are relevant to waste management activities at LANL. When any of these Orders is applicable, its provisions will be followed. Requirements for Executive Orders are reserved in 20.4.1 NMAC § 270.3(f) [6-14-00].